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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/728,785	11/30/2000	Rich Robinson	P209/1938P	2704
49278	7590	12/23/2005	EXAMINER VAUGHN, GREGORY J	
IPAC 111 Corning Road Suite 220 Cary, NC 27511			ART UNIT 2178	PAPER NUMBER
DATE MAILED: 12/23/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/728,785	ROBINSON ET AL.	
	Examiner	Art Unit	
	Gregory J. Vaughn	2178	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Action Background

1. This action is responsive to the applicant's amendment, filed on 9/30/2005.
2. Applicant has amended claims 1-32.
3. Claims 1-32 are pending in the case, claims 1, 10, 16 and 25 are independent claims.
4. Applicant has amended the drawings and specification in response to the objections cited by the examiner in the *Drawings* and *Specification* sections of the previous office action (dated 6/24/2005). Applicant's amendment has addressed the objections previously made, and therefore, in view of the amendment, objections to the drawings and specification are withdrawn.
5. Applicant's submission of replacement drawings filed on 9/30/2005 is acknowledged.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1-32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

8. **Regarding claim 1**, the amendment filed 9/30/2005 adds the following limitations (new matter is shown underlined): “*Storing a key ID and a definition on a server in a network, the one or more definitions for altering the correspondence first pre-defined function of the one or more image tags to create one or more custom tags for one or more of the image files, each custom tag having a second function that is different from the corresponding first pre-defined function” (limitation a). The examiner has reviewed the originally filed specification, and has failed to find support for the added limitations. Applicant is required to cancel the new matter in response to this office action.*

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9. **Regarding independent claims 10, 16 and 25**, the claims contain amendments similar to claim 1, and therefore are rejected on the same grounds as claim 1.

10. **Regarding dependent claims 2-9, 11-15, 17-24 and 26-32**, the claims are rejected for fully incorporating the deficiencies of their base claims.

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

13. **Regarding independent claims 1 and 10**, the claims recite the limitation "*the one or more definitions*" in first limitation of the claim. There is insufficient antecedent basis for this limitation in the claim. The claim previously describes: "*a key ID and a definition*" but fails to previously describe the "*one or more definitions*".

14. **Regarding dependent claims 2-9 and 11-15**, the claims are rejected for fully incorporating the deficiencies of their base claims.

Claim Rejections - 35 USC § 102

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

"A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language."

16. Claims 1, 7, 8-10, 16, and 22-24 remain rejected under 35 U.S.C. 102(e) as being anticipated by Pavley US Patent 6,445,460 (filed 4/13/1999, patented 9/3/2002).

17. **Regarding independent claim 1**, Pavley discloses a digital imaging system that employs an image capture device and a server on a network: Pavley recites: *"With the present invention, file attributes are used in order to synchronize file handling in a photosystem environment, i.e., between a digital camera 110 and an externally connected computer system, as represented in FIG. 6. For purposes of illustration, camera 110 is shown connected with a desktop computer system 1100 and an Internet web server computer processing system 1102"* (column 5, lines 46-52). Pavley discloses each image file having one or more image tags in Figure 4 at reference sign

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825. Pavley discloses the image tags having a predefined function in Figure 5 at reference signs 710, 715, 720 and 735 (shown as *"Capture Information Tags"*, *"User Information Tags"*, *"Product Tags"* etc.).

Pavley discloses storing a key ID and a definition of the one or more tags. Pavley recites: *"FIG. 4 illustrates a diagram of one embodiment for an image file 835. Image file 835 includes a header 805, image data 810, a scrennail 815, a thumbnail 820, and image tags 825. Header 805 preferably includes information that identifies and describes the various contents of image file 835. Image data 810 contains actual captured image data"* (column 4, lines 44-50).

Pavley discloses transferring the image file with tags (as described above in reference to Figure 4) for storage to an Internet server in Figure 6 at reference sign 1102.

Pavley discloses the tag definitions having a second functionality. Pavley recites: *"With a common operating environment, an image file 1104 that includes file attribute designations in accordance with the present invention is successfully and automatically handled within the photosystem environment based on established rule sets"* (column 5, lines 56-60) (compare *"second function"* to *"rule sets"*).

Pavley discloses altering the function of the image tags. Pavley provides an example where altering the function of a an archive tag for the purpose of saving time. Pavley recites: *"For example, when the priority is to save time, the system 1100 determines whether an archive attribute is set for an image*

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file. When not set, the system 1100 appropriately performs the action of copying the file from the camera 110 and marking the file with the archive attribute" (column 6, lines 35-41).

Pavley discloses in Figure 7, at reference sign 1208 a plurality of image files (shown as "Another Image File?"). Pavley further recites: "FIG. 7 illustrates a flow diagram of an overall process for automatic image file handling in accordance with the present invention. The process initiates with selection of a desired rule set (step 1200). The rule set may be set up and selected in the camera 110, the desktop system 1100, and/or the server system 1102. A system's file manager program supports application of a rule document on a list of files by opening each image file and examining the file attribute(s) associated with an image file (step 1202)" (column 6, lines 24-33).

18. **Regarding dependent claim 7**, Pavley discloses extracting the tags from the image file when the image files are received at the server. Pavley recites: "By way of further example, a goal may be established to conserve time by automatically having image transfer occur between the camera 110 and a computer system, e.g., system 1100, in the photosystem environment. A rule set establishes that image files not marked as archived are copied from the camera 110 to the system 1100 upon connection and are then marked as archived with an archive file attribute by the system 1100" (column 6, lines 10-17), (compare "when image files are received" to "the camera to the system upon connection").

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19. **Regarding dependent claim 8**, Pavley discloses extracting the tag from the image file when the image file is viewed. Pavley recites: "*A hidden file attribute provides a privacy feature that allows certain image files to be hidden and requires a password to access the file*" (column 5, lines 36-39), (compare "*when image files are viewed*" to "*access the file*").
20. **Regarding dependent claims 9 and 24**, the claims are rejected for fully incorporating the deficiencies of the base claims.
21. **Regarding independent claims 10 and 16**, the claims are directed toward a computer readable medium or a system for the method of claim 1, and are rejected using the same rationale.
22. **Regarding dependent claim 22**, the claim is directed toward a system for the method of claim 7, and is rejected using the same rationale.
23. **Regarding dependent claim 23**, the claim is directed toward a system for the method of claim 8, and is rejected using the same rationale.

Claim Rejections - 35 USC § 103

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

"(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made."

25. Claims 2, 3, 11, 12, 17, 18 and 25-29 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Pavley in view of Gao, US Patent 6,581,094, filed 11/2/1999, patented 6/17/2003.

26. **Regarding dependent claims 2 and 3**, Pavley discloses an image capture device that stores digital images in image files, where the image files contain an image identifier and image data stored in tags, the image files received over a network and assessable by a user as described above. Pavley fails to disclose receiving tag definitions over a network (claim 2) that enable the development of a camera application that uses the custom tags and a key ID (claim 3). Gao teaches the development of custom camera applications based upon device specific criteria. Gao recites: *"the following code defines profile attributes 124. The code defines attributes for a number of devices, including a printer, projector, camera"* (column 7, lines 57-58, emphasis added). Gao also recites: *"The memory 48 also stores device vendor applications 54. The device vendor applications 54 allow a vendor of*

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digital devices to supply updates and enhancements to digital devices within the networked environment 20" (column 2, line 67 to column 3, line 3). Gao defines the control of vendor applications as: *"The memory 72 also stores Universal Device Descriptor (UDD) files 76. The UDD files 76 may include a UDD file for the server 60 and UDD files for other digital devices within the networked environment 20"* (column 3, lines 29-32) and *"In a preferred embodiment of the invention, the UDD files are implemented as XML documents"* (column 4, lines 13-15) where the XML uses: *"Document Type Definition (DTD) is a set of syntax rules for tags. It specifies what tags can be used"* (column 3, lines 27-28).

Therefore, it would have been obvious, to one of ordinary skill in the art, at the time the invention was made, to combine the image files with custom tags of Pavley with the device specific application development of Gao in order to provide *"an input link from the digital camera's UDD, which has an output link to the storage device"* (Gao, column 15, lines 35-36).

27. **Regarding dependent claims 11 and 12**, the claims are directed toward a computer readable medium for the method of claims 2 and 3 respectively, and are rejected using the same rationale.

28. **Regarding dependent claims 17 and 18**, the claims are directed toward a system for the method of claims 2 and 3 respectively, and are rejected using the same rationale.

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29. **Regarding independent claim 25**, the claim is directed substantially the same subject matter as claims 1-3 combined, and is rejected using the same rationale.
30. **Regarding dependent claim 26**, Pavley recites: *"In addition to image tags 825, in accordance with the present invention, file attribute designations 1000 are provided for image files"* (column 5, lines 25-27) where Pavley defines file attribute designations as *"file attributes that act as metadata for a file. A minimum subset of file tags referred to herein as file attribute designations for digital image files includes a read-only file attribute, a hidden file attribute, an archive file attribute, and a system file attribute"* (column 5, lines 31-35).
31. **Regarding dependent claims 27 and 28**, Pavley discloses user tags in Figure 5 at reference sign 715, and custom tags at reference signs 720 and 735.
32. **Regarding dependent claim 29**, Pavley recites: *"For example, capture information tags 710 may indicate focus setting, aperture setting, and other relevant information that may be used for effectively processing or analyzing the corresponding image data"* (column 4, line 66 to column 5 line 3).

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33. Claims 4-6, 13-15, 19-21 and 30-32 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Pavley in view of Gao, and in further view of Manolis et al., US Patent 6,583,799, filed 11/29/1999, patented 6/24/2003 (hereinafter Manolis).
34. **Regarding dependent claims 4 and 5**, Pavley and Gao disclose a method for customizing image file tags in camera applications as described above. Pavley and Gao fail to disclose the use of a database to store image data, or allowing a user network access to the image files. Manolis teaches the use of a database for image file storage and access. Manolis discloses in Figure 7, at reference sign 520, a "DB Server" as an element of the "Image Archive Subsystem". Manolis also recites: *"After the user has entered the required information, the user presses the Next button 220 to arrive at the next screen--an image selection window 222 as shown in FIGS. 2B and 2C"* (column 2, lines 32-35).

Therefore, it would have been obvious, to one of ordinary skill in the art, at the time the invention was made, to combine the camera application with image files having customized tags of Pavley and Gao with the database storage and user access as taught by Manolis in order to provide *"software that allows a user to perform tasks such as communicating with other computer users, accessing various computer resources, and viewing, creating, or otherwise manipulating electronic content---that is, any combination of text, images"* (Manolis, column 1, lines 26-30).

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35. **Regarding dependent claims 13 and 14**, the claims are directed toward a computer readable medium for the method of claims 4 and 5 respectively, and are rejected using the same rationale.
36. **Regarding dependent claims 19 and 20**, the claims are directed toward a system for the method of claims 4 and 5 respectively, and are rejected using the same rationale.
37. **Regarding dependent claims 30 and 31**, the claims contain substantially the same subject matter as claims 4 and 5 respectively, and are rejected using the same rationale.
38. **Regarding dependent claims 6, 15, 21 and 32**, the claims are rejected for fully incorporating the deficiencies of the base claims.

Response to Arguments

39. Applicant's arguments filed 9/30/2005 have been fully considered but they are not persuasive.

40. Applicant's amendments to the drawings and specification are acceptable and will be entered into the record.

41. **Regarding claim 1**, applicant argues that: "*Pavley Fails To Disclose Altering a First Pre-defined Function of an Image Tag To Create a Custom Tag Having a Second Pre-defined Function That is Different from the First Pre-defined Function*" (page 18, second to last paragraph of the response filed 9/30/2005). Applicant is directed to the rejection of claim 1, as stated above. Pavley discloses the use of rule sets wherein the multiple rule sets determine different (i.e. first, second, third etc.) functionality of the image tags. Pavley recites: "*With a common operating environment, an image file 1104 that includes file attribute designations in accordance with the present invention is successfully and automatically handled within the photosystem environment based on established rule sets*" (column 5, lines 56-60) (compare "*second function*" to "*rule sets*").

42. **Also, regarding claim 1**, applicant argues that: "*Pavley Fails To Disclose Storing A Definition Of A Custom Tag On ad Server*" (page 20, third paragraph of the response filed 9/30/2005). Applicant is directed to the rejection of claim 1 as stated above. Pavley discloses a photosystem

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environment, wherein the photosystem environment includes a server, and the server maintains the various rule sets for the tags. Pavley recites: "*With the present invention, file attributes are used in order to synchronize file handling in a photosystem environment, i.e., between a digital camera 110 and an externally connected computer system, as represented in FIG. 6. For purposes of illustration, camera 110 is shown connected with a desktop computer system 1100 and an Internet web server computer processing system 1102*" (column 5, lines 46-52).

43. **Also, regarding claim 1**, applicant argues that: "*The Claim Has Limitations Not Taught, Either Alone Or In Combination, By Any Of The References*" (page 20, fifth paragraph of the response filed 9/30/2005). Pavley discloses alone all the claim limitations, as described above

Conclusion

44. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

45. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Vaughn whose telephone number is (571) 272-4131. The examiner can normally be reached Monday to Friday from 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen S. Hong can be reached at (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is (571) 272-2100.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gregory J. Vaughn
December 14, 2005



STEPHEN HONG
SUPERVISORY PATENT EXAMINER